

### REMARKS

Claims 1, 2, 4-6, 8-11, 14-16 and 18-20 are currently pending, wherein claims 1, 2, 4-6, 8, 9, 14-16, and 18-20 have been amended to correct typographical/translation errors and/or include the subject matter of canceled claims 3, 12, 13, and 17. Applicants respectfully request favorable reconsideration in view of the remarks presented herein below.

In paragraph 3 of the Office Action ("Action"), the Examiner rejects claims 1-6, 8, 10 and 14-20 under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent No. 6,858,006 to MacCarter et al. ("MacCarter"). Applicants respectfully traverse this rejection.

In order to support a rejection under 35 U.S.C. § 102, the cited reference must teach each and every claimed element. In the present case, claims 1-6, 8, 10 and 14-20 are not anticipated by MacCarter because MacCarter fails to disclose each and every claimed element as discussed below.

Independent claims 1 and 18, have been amended to include the subject matter of canceled claims 3 and 12. Therefore, the system of claims 1 and 18, as amended, includes, *inter alia*, a health control communication device for acquiring health information indicating the health condition of a target person for diagnosis by a doctor; a diagnosis communication device used for the diagnosis of the health condition of said target person by said doctor; and an information processing apparatus capable of communicating with said health control communication device and said diagnosis communication device. In addition, the information processing apparatus includes a processor configured to: store identifying information of the diagnosis communication device for identifying said diagnosis communication device, in

association with said target person identification information; evaluate the health condition of said target person on the basis of the health information received from the health control communication device; notify a result of the evaluation by said evaluating operation separately to a target person specified by the identification information received from said health control communication device and to said doctor carrying out said diagnosis on said target person; and calculate accounting information indicating a charge to said doctor who uses said diagnosis communication device.

MacCarter discloses a health monitoring system for monitoring health information from a plurality of patients. As illustrated in Fig. 1 of MacCarter, the system includes a plurality of data gathering devices (108) configured to communication with one of a plurality of aggregation nodes (112), which configured to communication with a monitoring center. As discussed in column 5, lines 24-30, the monitoring center, which is remote from both the patients and the medical professionals, stores medical data received from the aggregation nodes and allows for pre-designed and custom charts to be viewed by medical professionals who log into the center. However, MacCarter fails to anticipated the present invention as defined by independent claims 1 and 18 for at least the reason that MacCarter fails to disclose that the monitoring center is configured to/capable of calculating accounting information indicating a charge to the medical professionals who use the monitoring center as claimed.

Independent claims 6 and 19 have been amended to include the subject matter of claims 5 and 13. Accordingly, independent claims 6 and 19 each define a health control system that includes, *inter alia*, a health control communication device for acquiring health information

indicating the health condition of a target person for nursing by a health care provider; a nursing communication device used for visit nursing of the target person by a health care provider carrying out nursing on said target person; and an information processing apparatus capable of communicating with said health control communication device and said nursing communication device. In addition, the information processing apparatus includes a processor configured to: store identifying information of the nursing communication device for identifying said nursing communication device, in association with said target person identification information; evaluate the health condition of said target person on the basis of the health information received from the health control communication device; notify a result of the evaluation by said evaluating operation separately to a target person specified by the identification information received from said health control communication device and to said health care provider carrying out said nursing on said target person; and calculate accounting information indicating a charge to said health care provider depending on the information provided to said health care provider.

MacCarter fails to anticipated the present invention as defined by independent claims 6 and 19 for at least the reason that MacCarter fails to disclose that the monitoring center is configured to/capable of calculating accounting information indicating a charge to the health care provider depending on the information provided to said health care provider as claimed.

Independent claims 14 and 20 have been amended to include the subject matter of canceled claim 17. Accordingly, independent claims 14 and 20 define an information processing apparatus that includes, *inter alia*, means for receiving target person identifying information for identifying a target person for diagnosis by a doctor and health information indicating the health

condition of said target person; means for evaluating the health condition of said target person specified by said target person identifying information, on the basis of said health information received by said receiving operation; and notifying means for notifying the evaluation result by said evaluating operation separately to said target person, said doctor carrying out said diagnosis on said target person, and a health care provider carrying out nursing on said target person. Furthermore, the evaluating operation includes generating information indicating the evaluation result of the health condition of the target person to be used for notification to a health care provider and said notifying operation includes transmitting said information indicating the evaluation result generated by said evaluating operation on the basis of said received target person identifying information.

In rejecting claims 14 and 20, the Examiner asserts that MacCarter discloses an information processing apparatus as claimed inasmuch as MacCarter discloses that the monitoring center 124 has a web interface that allows medical professionals to log in and view pre-designed and custom charts. However, nowhere in MacCarter is there any disclosure of notifying the result of the evaluation to the target *person*, the *doctor* who is carrying out diagnosis of the target person's health condition, and a health care provider who is carrying out nursing for the target person. To the contrary, MacCarter merely discloses that medical professional can log on and view medical charts.

The present invention as defined in claims 14 and 20 generates information indicating the evaluation result of the health condition of the target person to be used for notification to a health care provider, separately from the information to be used for the notification to the doctor or the

target person. Accordingly, independent claims 14 and 20 are not anticipated by MacCarter because MacCarter fails to disclose each and every claimed element.

Claims 2, 4, 5, 8-11, and 14-16 variously depend from independent claims 1, 6, and 14. Therefore, claims 2, 4, 5, 8-11, and 14-16 are patentable over MacCarter for at least those reasons presented above with respect to claims 1, 6, and 14. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 1, 2, 4-6, 8-11, 14-16 and 18-20 under 35 U.S.C. § 102(e).

In paragraph 5 of the Action, the Examiner rejects claim 9 under 35 U.S.C. § 103(a) as allegedly being unpatentable over MacCarter in view U.S. Patent No. 6,873,268 to Lebel et al. ("Lebel"). Applicants respectfully traverse this rejection.

In order to support a rejection under 35 U.S.C. § 103, the Examiner must establish a *prima facie* case of obviousness. To establish a *prima facie* case of obviousness, three criteria must be met. First, there must be some motivation to combine the cited references. Second, there must be a reasonable expectation of success. Finally, the combination must teach each and every claimed element. In the present case, claim 9 is not rendered unpatentable by the combination of MacCarter and Lebel for at least the reason that the combination fails to disclose each and every claimed element as discussed below.

Claim 9 depends from independent claim 1. Therefore, claim 9 is patentable over MacCarter for at least those reasons presented above with respect to claim 1. Lebel discloses an implantable infusion pump configured to communicate with an external device. Although the implantable infusion pump of Lebel is configured to exchange medical telemetry messages with

an external device which may include a speech generation system, nowhere in Lebel is there any disclosure of a diagnosis unit for carrying out *dialogic* diagnosis on the target person as claimed. In addition, the infusion pump of Lebel is not maintained external to the body of the target person as claimed.

Since MacCarter and Lebel both fail to disclose or suggest a health control system that includes a dialogic diagnosis unit as claimed, the combination of these two references cannot possibly disclose or suggest said element. Therefore, even if one skilled in the art were motivated to combine MacCarter and Lebel, which Applicants do not concede, the combination would still fail to render claim 9 unpatentable because the combination fails to disclose each and every claimed element. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 9 under 35 U.S.C. § 103(a).

In paragraph 6 of the Action, the Examiner rejects claims 11-13 under 35 U.S.C. § 103(a) as allegedly being unpatentable over MacCarter in view of U.S. Patent Application Publication No. 2002/0082665 to Haller et al. ("Haller"). Applicants note that claims 12 and 13 have been canceled, however, the subject matter of these claims has been included in the pending independent claims, accordingly, claims 12 and 13 will be addressed below. Applicants respectfully traverse this rejection.

The subject matter of claims 11-13 is directed to the added capable of calculating accounting information indicating a charge to the target person (claim 11), the doctor who used the system (claim 12), or a health care provider (claim 13). In addition, claim 11 depends from

independent claim 1. Therefore, claim 11 is patentable over MacCarter for at least those reasons presented above with respect to claim 1.

Haller discloses a system and method for monitoring the performance of an implantable medical device implanted within a body of a patient, monitoring the health of the patient, or remotely delivering a therapy of patient through the implanted device. In addition, Haller discloses that charges for the services or medicines provided may be billed to the patient or their insurance provider directly. However, nowhere in Haller is there any disclosure or suggestion of calculating a charge to the doctor or health care provider as claimed..

Since MacCarter and Haller both fail to disclose or suggest a health control system that includes an information processing apparatus that includes a processor configured to calculate accounting information indicating a charge to a doctor and/or a health care provider as claimed, the combination of these two references cannot possibly disclose or suggest said element. Therefore, even if one skilled in the art were motivated to combine MacCarter and Haller, which Applicants do not concede, the combination would still fail to render the subject matter of claims 11-13 unpatentable because the combination fails to disclose each and every claimed element. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 11 under 35 U.S.C. § 103(a).

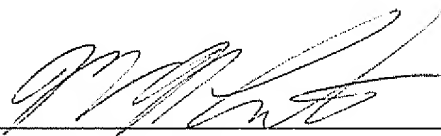
The application is in condition for allowance. Notice of same is earnestly solicited. Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Penny Caudle (Reg. No. 46,607) at the telephone

number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

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Respectfully submitted,

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